

**Introduced by Committee on Elections and Reapportionment  
(Senators Perata (Chair), Escutia, and Murray)**

February 21, 2003

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An act to amend Section 5091 of the Education Code, to amend Sections 3103, 3304, 3500, 7227, 7422, 7672, 7772, 10411, 11020, 13113, and 14242 of the Elections Code, and to amend Section 9358 of the Public Resources Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as introduced, Committee on Elections and Reapportionment. Elections: omnibus provisions.

(1) Existing law requires an election for the purpose of filling a vacancy in the governing board of a school district to be held not less than 130 days after the occurrence of the vacancy or after a resignation is filed with the county superintendent of schools.

This bill would impose a state-mandated local program as it would, instead, require the election to be held not less than 130 days after the order of the election.

(2) Existing law provides that a new citizen is eligible to register and vote at the office of the county elections official at anytime beginning on the 28th day before an election and ending on the 7th day prior to the election.

This bill would modify that time period to begin on the 14th day before an election, thereby imposing a state-mandated local program.

(3) Existing law requires the proponents of a recall of an elected officer to submit a notice of intention, which is required to contain the printed name, signature, and business or residence address of each of the proponents, among other requirements.

This bill would modify that provision in that it would require the proponents to submit their residence address or mailing address, if that address differs from the residence address of each proponent.

(4) Existing law provides that a person offering to vote may be orally challenged by a member of the precinct board if the voter is not a resident of the precinct, unless the voter is registered in another precinct and he or she is moving from that precinct within 28 days prior to an election.

This bill would modify those provisions in that it would exempt a voter registered in another precinct who is moving from that precinct within 14 days prior to an election.

(5) Existing law requires a nomination for the office of director of a Resource Conservation District to be filed with the clerk of the board of supervisors of the principal county.

This bill, instead, would require the nomination to be filed with the county elections official.

(6) This bill also makes technical, nonsubstantive changes to existing law, and corrects several erroneous cross-references to existing law.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5091 of the Education Code is amended  
2 to read:  
3 5091. (a) Whenever a vacancy occurs, or whenever a  
4 resignation has been filed with the county superintendent of  
5 schools containing a deferred effective date, the school district or



community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall ~~call~~ *order* an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next ~~regular~~ *established* election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the ~~occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools~~ *order of the election*.

(c) (1) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1<sup>1</sup>/<sub>2</sub> percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with registered voters of less than 2,000 persons, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

(2) The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall ~~call~~ *order* a special election to be conducted no later than the ~~120th~~ *130th* day after the determination. However, if a ~~regular~~ *an established* election date, as defined in Section 1000 of the Elections Code, occurs between the ~~120th~~ *130th* day and the 150th day following the ~~determination~~ *order of the election*, the county

1 superintendent of schools may ~~call~~ *order* the special election to be  
2 conducted on the regular election date.

3 (d) A provisional appointment made pursuant to subdivision  
4 (a) confers all powers and duties of a governing board member  
5 upon the appointee immediately following his or her appointment.

6 (e) A person appointed to fill a vacancy shall hold office only  
7 until the next regularly scheduled election for district governing  
8 board members, whereupon an election shall be held to fill the  
9 vacancy for the remainder of the unexpired term. A person elected  
10 at an election to fill the vacancy shall hold office for the remainder  
11 of the term in which the vacancy occurs or will occur.

12 (f) (1) Whenever a petition calling for a special election is  
13 circulated, the petition shall meet all of the following  
14 requirements:

15 (A) The petition shall contain the estimate of the elections  
16 official of the cost of conducting the special election.

17 (B) The name and residence address of at least one, but not  
18 more than five, of the proponents of the petition shall appear on the  
19 petition, each of which proponents shall be a registered voter of the  
20 school district or community college district, as applicable.

21 (C) None of the text or other language of the petition shall  
22 appear in less than six-point type.

23 (D) The petition shall be prepared and circulated in conformity  
24 with Sections 100 and 104 of the Elections Code.

25 (2) If any of the requirements of this subdivision are not met as  
26 to any petition calling for a special election, the county  
27 superintendent of schools shall not verify the signatures, nor shall  
28 any further action be taken with respect to the petition.

29 (3) No person shall permit the list of names on petitions  
30 prescribed by this section to be used for any purpose other than  
31 qualification of the petition for the purpose of holding an election  
32 pursuant to this section.

33 (4) The petition filed with the county superintendent of schools  
34 shall be subject to the restrictions in Section 6253.5 of the  
35 Government Code.

36 (g) Elections held pursuant to subdivisions (b) and (c) shall be  
37 conducted in as nearly the same manner as practicable as other  
38 governing board member elections.

39 SEC. 2. Section 3103 of the Elections Code is amended to  
40 read:

1 3103. (a) Notwithstanding any other provision of the law, a  
2 special absentee voter who qualifies pursuant to this section may  
3 apply for a special absentee voter ballot. Any application made  
4 pursuant to this section that is received by the elections official  
5 prior to the 60th day before the election shall be kept and processed  
6 on or after the 60th day before the election.

7 (b) If a special absentee voter submits an application  
8 containing a statement that provides that due to military or other  
9 contingencies that preclude normal mail delivery, as specified by  
10 the voter, the voter cannot vote an absentee ballot during the  
11 normal absentee voting period, and the voter is otherwise qualified  
12 to vote as a special absentee voter, the elections official shall  
13 immediately send the voter a ballot in a form prescribed and  
14 provided by the Secretary of State, or a ballot and voter registration  
15 card if required by Section 3100. The elections official shall send  
16 with the ballot a list of all candidates who have qualified for the  
17 ballot by the 60th day before the election and a list of all measures  
18 that are to be submitted to the voters and on which the voter is  
19 qualified to vote. The voter shall be entitled to write in the name  
20 of any specific candidate seeking nomination or election to any  
21 office listed on the ballot.

22 (c) Notwithstanding Section ~~15351~~ 15341 or any other  
23 provision of law, any name written upon a ballot for a particular  
24 office pursuant to subdivision (b) shall be counted for the office or  
25 nomination.

26 (d) The elections official shall receive and canvass special  
27 absentee voter ballots described in this section under the same  
28 procedure as absent voter ballots, insofar as that procedure is not  
29 inconsistent with this section, except that prior to election day,  
30 special absentee voter ballots shall be secured separately in a  
31 sealed ballot box reserved for that purpose.

32 (e) In the event that a voter executes a special absentee ballot  
33 pursuant to this section and the military or other contingency does  
34 not exist during the normal absentee voting period, that voter may  
35 make an application for an absentee ballot pursuant to Sections  
36 3100 and 3101. If an application is made pursuant to this  
37 subdivision, the elections official shall reject the voted ballot  
38 previously cast and process the application in accordance with  
39 Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for an absent voter's ballot. Upon request, the elections official shall send to the qualified special absentee voter either by mail or facsimile transmission the special absentee ballot or, if available, an absent's voter ballot pursuant to Chapter 1 (commencing with Section 3000).

SEC. 3. Section 3304 of the Elections Code is amended to read:

3304. (a) A voter described in Section 3302 may apply for an absent voter ballot. Any application made pursuant to this section that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If the voter submits an application containing a statement that provides that due to contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as provided in this chapter, the elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 3307. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section ~~15351~~ 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The elections official shall receive and canvass the absent voter ballots described in this section under the same procedure as other absent voter ballots, insofar as that procedure is not inconsistent with this section, except that prior to election day, the absent voter ballots described in this section shall be secured separately in a sealed ballot box reserved for that purpose.

SEC. 4. Section 3500 of the Elections Code is amended to read:

1 3500. Any new citizen is eligible to register and vote at the  
2 office of the county elections official at any time beginning on the  
3 ~~28th~~ 14th day before an election and ending on the seventh day  
4 prior to election day.

5 SEC. 5. Section 7227 of the Elections Code is amended to  
6 read:

7 7227. In each county the name of each candidate for member  
8 of a committee shall appear upon the ballot only upon the filing of  
9 a nomination paper pursuant to ~~Articles~~ Article 2 (commencing  
10 with Section 8020) ~~and to Article 6~~ (commencing with Section  
11 8100), *inclusive*, of Chapter 1 of Part 1 of Division 8, signed in his  
12 or her behalf by the voters of the Assembly or supervisorial district  
13 in which he or she is a candidate.

14 SEC. 6. Section 7422 of the Elections Code is amended to  
15 read:

16 7422. In each county the name of each candidate for member  
17 of a committee shall appear upon the ballot only upon the filing of  
18 a nomination paper pursuant to ~~Articles~~ Article 2 (commencing  
19 with Section 8020) ~~and to Article 6~~ (commencing with Section  
20 8100), *inclusive*, of Chapter 1 of *Part 1 of* Division 8, signed on  
21 his or her behalf by the voters of the Assembly or supervisorial  
22 district in which he or she is a candidate.

23 SEC. 7. Section 7672 of the Elections Code is amended to  
24 read:

25 7672. In each county the name of each candidate for member  
26 of a committee shall appear upon the ballot only upon the filing of  
27 a nomination paper pursuant to Article 2 (commencing with  
28 Section 8020) ~~and to Article 6~~ (commencing with Section 8100),  
29 *inclusive*, of Chapter 1 of *Part 1 of* Division 8, signed on his or her  
30 behalf by the voters of the Assembly or ~~supervisor~~ supervisorial  
31 district in which he or she is a candidate.

32 SEC. 8. Section 7772 of the Elections Code is amended to  
33 read:

34 7772. In each county, the name of each candidate for member  
35 of central committees shall appear on the ballot only if she or he  
36 has done either of the following:

37 (a) Filed a nomination paper pursuant to ~~Chapter 4~~  
38 ~~(commencing with Section 6700) of Division 6~~ Article 2  
39 ~~(commencing with Section 8020) to Article 6~~ (commencing with  
40 Section 8100), *inclusive*, of Chapter 1 of Part 1 of Division 8,



1 signed in the candidate's behalf by the voters of the central  
2 committee election district in which she or he is a candidate.

3 (b) Qualified to have her or his name printed on the direct  
4 primary ballot as a candidate for the Peace and Freedom Party  
5 nomination to a partisan public office.

6 SEC. 9. Section 10411 of the Elections Code is amended to  
7 read:

8 10411. In case of the consolidation of any election called by  
9 the legislative body of a city, district, or other political subdivision  
10 with an election held in the county or counties in which the city,  
11 district, or other political subdivision is situated, the governing  
12 body of the city, district, or other political subdivision may  
13 authorize the board of supervisors to canvass the returns of the  
14 election. If this authority is given:

15 (a) The election shall be held in all respects as if there were only  
16 one election.

17 (b) Only one form of ballot shall be used.

18 (c) The returns of the election need not be canvassed by the  
19 legislative body of the authorizing city, district, or other political  
20 subdivision.

21 If such authority is given to the board of supervisors, the canvass  
22 shall be made in accordance with Article 1 (commencing with  
23 Section ~~15050~~ 15300) of Chapter 2 4 of Division 15.

24 SEC. 10. Section 11020 of the Elections Code is amended to  
25 read:

26 11020. The notice of intention shall contain all of the  
27 following:

28 (a) The name and title of the officer sought to be recalled.

29 (b) A statement, not exceeding 200 words in length, of the  
30 reasons for the proposed recall.

31 (c) The printed name, signature, and ~~business or~~ residence  
32 address *or mailing address, if different from the residence address*,  
33 of each of the proponents of the recall. The minimum number of  
34 ~~signatures shall be ten~~ *proponents is 10*, or equal to the number of  
35 signatures required to have been filed on the nomination paper of  
36 the officer sought to be recalled, whichever is higher.

37 (d) The provisions of Section 11023.

38 SEC. 11. Section 13113 of the Elections Code is amended to  
39 read:



13113. (a) In the case of an election of candidates in a special district, school district, charter city (whose charter does not provide to the contrary), or other local government body, occurring on other than one of the ~~four major~~ election dates specified in subdivision (b) of Section 13112, the official responsible for conducting the election shall, at the same time that the election is called, notify the Secretary of State by registered mail of the date of the election, the date of the close of filing, and the last possible date for filing in the event there is an extension of filing due to an incumbent failing to file. The Secretary of State shall conduct a randomized alphabet drawing on the first weekday following the last possible day of filing for such an election according to subdivision (a) of Section 13112.

(b) If two or more drawings for local government elections would occur on the same date, the Secretary of State may use a single randomized alphabet drawing for all of these elections. The Secretary of State shall communicate the results of the drawing by registered mail to each respective official responsible for conducting the election who shall use it to determine the order on the ballot of all candidates' names.

(c) All drawings held pursuant to this section shall be open to the public.

SEC. 12. Section 14242 of the Elections Code is amended to read:

14242. The ground for challenge set forth in paragraph (2) of subdivision (a) of Section 14240 shall not apply to any person duly registered as a voter in any precinct in California and moving from that precinct within ~~28~~ 14 days prior to an election.

SEC. 13. Section 9358 of the Public Resources Code is amended to read:

9358. Nomination of candidates shall be in writing and signed by at least five landowners of the district. Nominations shall be filed with the ~~clerk of the board of supervisors~~ *county elections official* of the principal county.

SEC. 14. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

- 1 reimbursement does not exceed one million dollars (\$1,000,000),
- 2 reimbursement shall be made from the State Mandates Claims
- 3 Fund.

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